

REMARKS

1. In response to the Office Action mailed September 25, 2006, Applicants respectfully request reconsideration. Claims 1-19 were last presented in the application. In the outstanding Office Action, claims 1-19 were rejected. By the foregoing Amendments, claims 1-19 have been cancelled, and claims 20-38 have been added. Thus, upon entry of this paper, claims 20-38 will be pending in this application. Of these 19 claims, three (3) claims (claims 20, 25 and 32) are independent.

2. Based on the above Amendments and following Remarks, Applicants respectfully request that all outstanding objections and rejections be reconsidered, and that they be withdrawn.

Art of Record

3. Applicants acknowledge receipt of form PTO-892 listing additional references identified by the Examiner.

4. Applicants thank the Examiner for returning form PTO/SB/08a filed by Applicants on March 4, 2005, which has been initialed by the Examiner indicating that the Examiner has considered the references cited therein.

Drawings

5. Applicants thank the Examiner for indicating that the drawings filed on March 4, 2005, have been accepted by the Examiner.

Claim Rejections

6. The Examiner has rejected claims 1-19 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,151,400 to Seligman, (hereinafter, "Seligman"). Applicants have cancelled claims 1-19 thereby rendering these rejections moot.

New Claims

7. Applicants have added new claims 20-38 to more clearly claim embodiments of the present invention. Applicants submit that these new claims have not been added to overcome any objection or rejection and respectfully submit that no new matter has been added.

***The Art of Record Fails to Teach or Suggest
Applicants' Invention As Recited In New Claim 20***

8. Applicants further submit that for the reasons discussed below, new independent claim 20 is patentable over the art of record.
9. Seligman is generally directed to a device for controlling the amplification and gain control of *inputs* to hearing prostheses. (*See*, Seligman, Abstract; emphasis added.) Specifically, Seligman notes that “it is an object of the present invention to provide an improved AGC [automatic gain control] system for hearing aids and auditory prostheses such that the sensitivity of the system responds better to the prevailing sound environment.” (*See*, Seligman, col. 1, line 66- col. 2, line 2.) Seligman accomplishes this task by providing a controlled amplifier that has a maximum gain that is varied with the prevailing background noise in the operational environment. (*See*, Seligman, col. 2, lines 5-15.) Thus, in other words, Seligman is directed to a device that improves the sound inputs to hearing prostheses.
10. Applicants' claim 20 recites, in part, “a first implanted subsystem configured to provide stimulation to at least one desired section of an auditory nerve, and configured to successively sample an evoked neural response of the auditory nerve to said stimulation to obtain a plurality of discrete values collectively representing an unsaturated, high gain amplified version of the evoked neural response.” Not only does Seligman completely fail to disclose a device configured to “sample and evoked neural response,” but Seligman further fails to disclose a device that is at all configured to “to obtain a plurality of discrete values collectively representing an unsaturated, high gain amplified version” of an evoked neural response. These teachings are completely lacking from Seligman because, as noted above, Seligman is directed to the automatic gain control of signals input into hearing prostheses to take into account environment sounds, and is not at all related to evoked neural responses. (*See*, Seligman, col. 2, lines 5-15.) Furthermore, Seligman also fails to teach or suggest “a second subsystem configured to reconstruct said plurality of discrete values into a continuous waveform” as recited in Applicants' claim 20.
11. Therefore, for at least the above reasons Applicants assert that Seligman fails to teach all elements of Applicants' claim 20. Applicants further assert the other art of record, taken alone or in combination, also fail to teach all elements of Applicants' claim 20.

***The Art of Record Fails to Teach or Suggest
Applicants' Invention As Recited In New Claims 25 and 32***

12. For at least the reasons discussed above with reference to Applicants' claim 20, Applicants assert that Seligman also fails to teach or suggest all elements of Applicants' claims 25 and 32. Applicants further assert that the other art of record, taken alone or in combination, also fail to teach all elements of Applicants' claims 25 and 32.

Dependent Claims

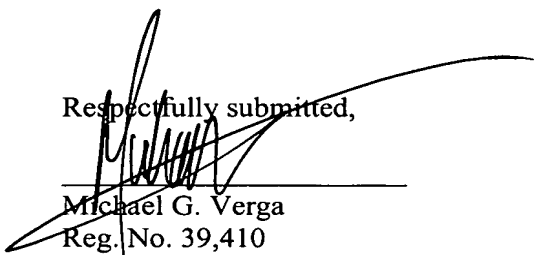
13. The dependent claims incorporate all of the subject matter of their respective independent claims and add additional subject matter, which makes them a fortiori and independently patentable over the art of record. Accordingly, Applicants respectfully request that the outstanding rejections of the dependent claims be reconsidered and withdrawn.

Conclusion

14. In view of the foregoing, this application should be in condition for allowance. A notice to his effect is respectfully requested.

15. Applicants reserve the right to pursue any cancelled claims or other subject matter disclosed in this application in a continuation or divisional application, cancellations and amendments of above claims, therefore, are not to be construed as an admission regarding the patentability of any claims and Applicant reserves the right to pursue such claims in a continuation or divisional application.

Respectfully submitted,



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